

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

UNITED STATES OF AMERICA)	
)	
v.)	Cr. No. 07-134-S
)	
SOUTHERN UNION COMPANY)	

**UNITED STATES' MOTION CONCERNING
THE ISSUES THAT SHOULD BE RESOLVED ON REMAND**

There are three main issues that the Court should resolve on remand: (1) whether the Court may empanel a jury to find the number of days of the violation; (2) whether the \$12 million in community service obligations rest on a different statutory and constitutional basis than the \$6 million fine; and (3) whether the alternative fine statute permits a fine of up to \$500,000. For the reasons stated in the accompanying memorandum, the Court should answer all three questions in the affirmative. If it does so, it should ultimately empanel a jury. In the absence of a jury determination concerning the number of days of the violation, however, the Court should hold that the \$12 million portion of the judgment remains intact, and that it may fine the company up to \$500,000.

Respectfully submitted,

UNITED STATES OF AMERICA
By its Attorneys,

PETER F. NERONHA
United States Attorney

/s/ Donald C. Lockhart

DONALD C. LOCKHART
Assistant U.S. Attorney

U.S. Attorney's Office
50 Kennedy Plaza, 8th Floor
Providence, RI 02903
Tele: (401) 709-5030
FAX: (401) 709-5001
donald.lockhart2@usdoj.gov

TERRENCE P. DONNELLY
Assistant U.S. Attorney
U.S. Attorney's Office
50 Kennedy Plaza, 8th Floor
Providence, RI 02903
Tele: (401) 709-5030
FAX: (401) 709-5001
terrence.donnelly@usdoj.gov

COLIN L. BLACK
Trial Attorney
U.S. Department of Justice
Environment & Natural Resources Division
Environmental Crimes Section
601 D Street, N.W.
Washington, DC 20530
Tele: (202) 305-2729
colin.black@usdoj.gov

DIANNE G. CHABOT
Regional Criminal Enforcement Counsel
U.S. Environmental Protection Agency
Criminal Investigation Division
5 Post Office Square
Suite 100, OES04-2
Boston, MA 02109-3912
Tele: (617) 918-1868
FAX: (617) 918-0868
chabot.dianne@epamail.epa.gov

CERTIFICATE OF SERVICE

I hereby certify that on August 23, 2012, a copy of the within filing was filed electronically and is available for viewing and downloading from the ECF system.

Electronic notification:

JOHN A. TARANTINO (#2586)
jtarantino@apslaw.com
PATRICIA K. ROCHA (#2793)
ADLER POLLOCK & SHEEHAN P.C.
One Citizens Plaza, 8th Floor
Providence, Rhode Island 02903

GERALD J. PETROS
HINCKLEY, ALLEN & SNYDER LLP
1500 Fleet Center
Providence, RI 02903

/s/ Donald C. Lockhart

DONALD C. LOCKHART
Assistant U.S. Attorney
U.S. Attorney's Office
50 Kennedy Plaza, 8th Floor
Providence, RI 02903
Tele: (401) 709-5030
FAX: (401) 709-5001
donald.lockhart2@usdoj.gov